

**UNITED STATES DISCTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HUMAN RIGHTS DEFENSE CENTER)
1028 N Federal Highway)
Lake Worth FL 33460)

Plaintiff,)

v.)

United States Immigration and)
Customs Enforcement,)
500 12th St., SW)
Washington, D.C. 20536)
Defendant.)

Civil Action
No.

COMPLAINT

This lawsuit is an action under the Freedom of Information Act, 5 U.S.C. §552, *et seq.*, seeking production of records responsive to requests submitted by the Human Rights Defense Center to the United States Immigration and Custom Enforcement.

JURISDICTION AND VENUE

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201(a) and 2202.

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2. Venue is appropriate in this Court under to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §1391.

PARTIES

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3. Plaintiff Human Rights Defense Center is a non-profit charitable organization incorporated in the state of Washington, with principal offices in Lake Worth Florida.
4. Defendant United States Immigration and Custom Enforcement is a component of the United States Department of Homeland Security and an agency under 5 U.S.C. §552(f)(1) and 5 U.S.C. § 701.

FACTS

Human Rights Defense Center's Background and Mission

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5. The Human Rights Defense Center (previous name, Prison Legal News) has spent the last twenty-nine years dedicated to public education, prisoner education, advocacy, and outreach to support the rights of prisoners and to further basic human rights.
6. To accomplish its mission, HRDC gathers information from governmental entities around the country and publishes the information in its journals and on its websites.
7. HRDC publishes and distributes books, magazines, and other information containing news and analysis about prisons, jails and other detention facilities, prisoners' rights,

court rulings, management of prison facilities, prison conditions, and other matters about the rights and interests of incarcerated individuals.

8. HRDC publishes two magazines: *Prison Legal News* and *Criminal Legal News*.
9. *PLN* is a legal journal that reports news and litigation about carceral facilities. *PLN* has published monthly since 1990 and has around 9,000 subscribers in all 50 states. Based on reader survey results the estimated actual readership is around ten times that number. *PLN*'s subscribers include lawyers, journalists, judges, courts, public libraries and universities. *PLN* also maintains a website that receives around 100,000 visitors per month based on site analytics.
10. *CLN* is a legal journal launched in November, 2017. *CLN* reports on criminal law decisions from the states and federal systems, focusing on legal developments affecting the fact and duration of confinement. *CLN* also covers civil rights litigation against police, prosecutors, and court systems.
11. Through its publishing arm, HRDC also publishes books about the criminal justice system and legal issues affecting prisoners.
12. HRDC has targeted attention on the price of communication for prisoners and developed expertise in those areas.

The United States Immigration and Custom Enforcement

13. United States Immigration and Custom Enforcement (“ICE”) was created in 2003, to promote homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade and immigration.
14. ICE employs over 20,000 people in over 400 offices, with a budget of approximately \$6 billion.
15. In order to accomplish its mission, ICE enters into contracts with private entities for certain services and goods.

Request at Issue

16. On August 10, 2018, HRDC sent to the designated ICE email address, ICE-FOIA@dhs.gov, a FOIA request for past and active contracts between ICE and private security contractor MVM, Inc. and any Memoranda of Understanding between ICE and MVM, Inc. regarding the latter’s work with immigrants and refugees.
17. Specifically, the letter requested contracts numbered:
 - ACL2C0006
 - GS03P02CID0012
 - HSACL5C0001
 - HSCOW2A0064
 - HSCEC608D00001

- MS03D0001

18. The letter also requested a fee waiver, as HRDC is a media organization.
19. On August 24, 2018, ICE responded via email informing HRDC that the request was received and assigned processing identification number 2018-ICFO-57555.
20. On September 28, 2018, ICE responded via letter that a search of ICE Office of Acquisitions did not reveal any responsive records.
21. On November 19, 2018, HRDC sent an administrative appeal to the ICE Office of the Principal Legal Advisor claiming that the search was inadequate, as the contracts requested were publicly acknowledged on the online Federal Procurement Data System. HRDC requested that a reasonable search be conducted and the relevant contracts be released.
22. On November 29, 2018, the ICE Office of the Principal Legal Advisor sent HRDC a letter informing it that the administrative appeal was received and assigned processing identification number 2019-ICAP-00128.
23. On December 26, 2018, the ICE Office of the Principal Legal Advisor sent HRDC a letter finding:

After a review of the administrative record and the search documentation which led to the determination on your FOIA request, ICE has determined that new search(s), or modifications to the existing search(s), could be made. We are therefore remanding your appeal to the ICE FOIA Office for processing and re-tasking to the appropriate agency/office(s) to obtain any responsive documents, should they exist. The ICE FOIA Office will respond directly to you.
24. As of March 8, 2019, the online tool for checking the status of DHS FOIA requests shows that there is nothing in the system corresponding to 2019-ICAP-00128 and that 2018-ICFO-57555 is closed as of September 29, 2018. Furthermore, the tool, available

at www.dhs.gov/foia-status indicates it is current only through October 6, 2018.

25. No further information or communication from ICE has been received by HRDC.

26. HRDC never received a response.

HRDC'S CLAIM FOR RELIEF

27. HRDC incorporates paragraphs 1 -26 by reference.

28. ICE wrongly withheld documents responsive to HRDC's properly submitted request.

29. HRDC has a statutory right to the records it seeks, and there is no basis for ICE to withhold them.

30. As a result, by failing to release the records specifically requested by HRDC, ICE has violated FOIA.

31. HRDC has a legal right to the responsive documents.

REQUESTED RELIEF

HRDC therefore respectfully requests that this Court:

1. Declare that the records sought by HRDC are subject to FOIA;
2. Order the ICE to disclose the requested records: the documents regarding electronic

messaging services and the documents regarding contracts and payments related to release payments for prisoners.

3. Award costs and attorney's fees under 5 USC (a)(4)(E).
4. Grant such other relief as the Court may consider just and proper.

Date: March 11, 2019.

Respectfully submitted,

/s/ Deborah M. Golden

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